



Attorney Docket No. 0006-0023

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Number: 10/045,301
In re Application of: Robert S. Bosko
Date Filed: October 26, 2001
Title: Systems and Method with Treated Water

Commissioner for Patents
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APPEAL BRIEF

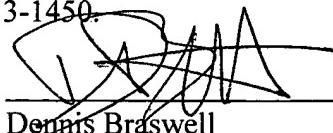
Applicant hereby presents its Brief on Appeal for the above-referenced application. Applicant's Notice of Appeal was filed on December 16, 2004. Also attached is the fee required under 37 C.F.R. § 41.20(b)(2).

CERTIFICATE OF MAILING

I hereby certify that this Appeal Brief (including the required fee) is being deposited with the United States Postal Service on the date shown below, with sufficient postage as first class mail in an envelope addressed to Mail Stop Appeal Brief – Patents, Commissioner for Patents, P.O. Box 1450, Arlington, VA 22313-1450.

Feb 16, 2005

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Dennis Braswell

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REAL PARTY IN INTEREST

The real party in interest is Lancer Partnership, Ltd., a Texas limited liability partnership, having a business address of 6655 Lancer Blvd., San Antonio, Texas 78219.

RELATED APPEALS AND INTERFERENCES

There are no related appeals and interferences of which Applicant is aware.

STATUS OF CLAIMS

Claims 1, 6-8, 11-15, and 18-31 remain in this application, all of them have been rejected, and all of them are being appealed. Claims 2-5, 9-10, and 16-17 have been cancelled.

STATUS OF AMENDMENTS

Applicant's amendment after final rejection, filed December 16, 2004, has been entered.

SUMMARY OF CLAIMED SUBJECT MATTER

Claims 1, 20, and 31 are independent claims.

Claim 1 relates to a unit (such as, without limitation, an ice maker) having a cabinet and an integral reverse osmosis water treatment system that comprises a flexible reservoir for storing treated water. *See*, Page 5, line 9 - Page 6, line 17, and Figures 1 and 2. The unit includes a host system which shares the cabinet and which performs host functions

(such as, without limitation, ice making), and which includes a cooling source. The reservoir is located in cooling proximity to the cooling source to allow cooling of the stored water, and the cooled water is used by the host system. *See*, Page 9, lines 15 - 20, and Figure 3 (references 42, 32, 14).

Claim 20 relates to a system that comprises (1) a water-using unit and (2) a separate unit remote from the water-using unit. *See*, Page 13, line 10 – Page 14, line 5, and Figure 6. The water-using unit (such as, without limitation, an ice maker) has a cabinet and a user access area, and includes an integral treated water source. *See*, Page 5, lines 8 – 12, and Figures 1 and 6. The separate unit does not share the cabinet of the water-using unit and has its own user access area separate from that of the water-using unit, and is supplied with water from the treated water source of the water-using unit. *See*, Page 13, lines 18 – 21, and Figure 6 (references 108, 110).

Claim 31 is similar to Claim 1, but does not recite that its treated water source is a reverse osmosis system with a flexible reservoir. *See*, Page 5, line 9 - Page 6, line 14; Page 9, lines 15 - 20, and Figures 1 and 3.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Following is a summary of the rejections made in this application. All of these rejections are being appealed hereunder.

1. Claims 1, 6-8, 11-15, and 18-31 have been rejected under 35 U.S.C. §112, first paragraph, as including new matter relating to recitation of a cabinet.
2. Claims 20-25, 27, and 31 have been rejected under 35 U.S.C. §102(b) as being anticipated by, or in the alternative under 35 U.S.C. §103(a) as being obvious in view

of, U.S. Patent No. 6,093,312 (“Boulter”).

3. Claims 1, 8, and 12-14 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Boulter in view of U.S. Patent No. 5,256,279 (“Voznick”).

4. Claims 26 and 28-30 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Boulter in view of U.S. Patent No. 5,992,685 (“Credle”).

5. Claims 15 and 18-19 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Boulter in view of Voznick and Credle.

6. Claims 6, 7, 11, and 12 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Boulter in view of Voznick and U.S. Patent No. 5,536,411 (“Blades”).

ARGUMENT

1. *Rejection under 35 U.S.C. §112, first paragraph*

Claims 1, 6-8, 11-15, and 18-31 have been rejected under 35 U.S.C. §112, first paragraph, as including new matter relating to recitation of a cabinet in independent Claims 1, 20, and 31. However, the cabinet recitations in these claims are fully supported by the specification, and therefore, it is respectfully submitted, the rejection is improper.

Claims 1 and 31. In particular, independent Claims 1 and 31 include a cabinet that is at least partly shared by the treated water source and the host system. In support of this, the specification explicitly states:

“Furthermore, manufacturing and maintenance costs are reduced, because the treated water source is built in as part of the host equipment, *thereby eliminating the need for two cabinets*, two sets of electronic controls, and other redundant systems. Similarly, installation costs are greatly reduced, as only one piece of equipment needs to be installed.” Page 6, lines 8 – 12, (emphasis supplied).

The law is clear that “[m]ere rephrasing of a passage does not constitute new matter. Accordingly, a rewording of a passage where the same meaning remains intact is permissible.” MPEP § 2163.07 I, citing *In re Anderson*, 471 F.2d 1237, 176 USPQ 331 (CCPA 1973).

Claim 20. Similarly, Claim 20 includes a water-using unit having a cabinet and a treated water source that shares at least part of the cabinet. Furthermore, Claim 20 recites “a separate unit remote from said water-using unit such that said separate unit does not share said cabinet” and which is supplied by the treated water source. As provided in the specification, and in particular as shown in Figure 6, “treated water source 104 supplies water to the host ice functions 106, but is also available to supply *external pieces of equipment, such as beverage dispenser 108 or other devices 110 (for example, without limitation, coffee machines and bread steamers)*. Page 13, lines 18 – 21; See also, Page 4, lines 3 – 8, describing the separate units as remote. These passages make clear that the separate units – which are units such as beverage dispensers, coffee machines, and bread steamers – are *external to and remote from* the water-using unit. It is inherent in this description that separate, remote, external units would not share the cabinet of the water-using unit.¹ Indeed, a unit *could not be* separate, remote, and external if it shared the cabinet. As stated in MPEP § 2163.07(a), “[b]y disclosing in a patent application a device that inherently performs a function or has a property, operates according to a theory or has an advantage, a patent application necessarily discloses that function, theory, or advantage, even though it says nothing explicit about it.” Therefore, it is proper to recite that the separate unit does not share the cabinet.

For these foregoing reasons, Applicant respectfully requests that the §112 rejection of Claims 1, 6-8, 11-15, and 18-31 be withdrawn.

¹ The Examiner actually admits the substance of this point in paragraph 1 of the final rejection, wherein he states that if “units are located remote to one another, so would the corresponding user access areas be.” If user access areas are remote, so would the cabinets be remote.

2. Rejections of Claims 20-25, 27, and 31

Claims 20-25, 27, and 31 have been rejected under 35 U.S.C. §102(b) as being anticipated by, or in the alternative under 35 U.S.C. §103(a) as being obvious in view of, U.S. Patent No. 6,093,312 (“Boulter”).

2.1 Boulter does not Anticipate the Rejected Claims

Boulter is the primary reference relied upon by the Examiner in all the anticipation and obviousness rejections, and it is thus important to understand its teaching. As shown in its Figure 24, Boulter teaches a water purification system (R/O membrane 8 and tank 10) used to supply (a) an ice maker 2019 via an ice maker supply tank 2300 and (b) a purified water dispenser (dispensed at nozzles 16). Dispensing of ice from the ice maker, and purified water from the nozzles, is available at a kiosk (Figure 17).

As will be discussed in detail below, Boulter does not show all elements of the claims under appeal, and thus it cannot anticipate them. Furthermore, there is no suggestion or motivation to modify Boulter, or to combine it with other references, to create the claims under appeal. Thus, it cannot form the basis of a proper obviousness rejection.

With respect to the anticipation rejection, it is important that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Indeed, “Every element of the claimed invention must be literally present, arranged as in the claim . . . [and] [t]he identical invention must be shown in as complete detail as is contained in the claim.” *Richardson v. Suzuki Motor Co.*, 868 E2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claims 20 and 31. Independent Claims 20 and 31 include multiple elements not present in Boulter, and thus Applicant respectfully requests that the anticipation rejection

be withdrawn. Both Claims 20 and 31 recite a water-using unit with “a cabinet” and “a treated water source sharing at least part of said cabinet such that said treated water source is integral with the water-using unit”. This language emphasizes that the treated water source is integrated with the water-using unit.

Boulter does not show such an arrangement. Rather, Boulter shows a traditional approach of using a treated water system to supply more than one water-using unit. However, in such a traditional system, the treated water system is a separate system, not integrated with any of the water-using units through common cabinetry.

Claim 20. In Boulter, the only arguable integration is that the units are arranged in a kiosk; however, no common cabinet is provided. And, even assuming, *arguendo*, that the kiosk is a common cabinet, Boulter still cannot anticipate Claim 20, which recites “a separate unit remote from said water-using unit such that said separate unit does not share said cabinet . . .” No such separate unit is disclosed in Boulter. The rejection overlooks a significant inconsistency in its rationale: If the kiosk *is* a common cabinet, then there can be no separate unit; and, if the kiosk *is not* a common cabinet, then there can be no integrated water treatment system and water-using unit. Whichever view is taken, the anticipation rejection fails.

Claims 24, 27, and 31. With respect to Claims 24, 27, and 31, in addition to the cabinet issue discussed above, Boulter does not show the cooling source located in cooling proximity to the treated water reservoir which is integrated with the water-using unit. The Examiner has stated that Boulter shows, in its Figure 32, a cooling source located in cooling proximity to the “reservoir.” However this is not sufficient to reject the claims. First of all, even if the Boulter Figure 32 showed cooling proximity, it is not between a cooling source and a “reservoir” as claimed in Claim 24, 27, and 31. ***The reservoir of these claims is integrated with the water-using unit and thus facilitates the cooling proximity.*** All Boulter shows is a separate ice maker supply tank – not a reservoir integrated with its ice maker.

Moreover, Boulter shows only reclaiming of harvest overflow water, not cooling due to proximity, as claimed. *See*, Boulter, Col. 8, lines 39-41. Cooling due to proximity involves heat transfer due to the close location of elements, not heat transfer through the transmission of water from one unit to another. It is important that the present application, at Page 10, lines 7-13, and in Claim 14, specifically distinguishes the reclaiming of unfrozen water and proximity cooling of a reservoir. Simply because the two elements in Boulter are shown in the same drawing Figure does not mean they are in cooling proximity, as specifically described in Applicant's specification. *See*, Page 9, lines 15-20 and Page 13, lines 3-7.

For these foregoing reasons, Applicant respectfully requests that the §102 rejection of Claims 20-25, 27, and 31 be withdrawn.

2.2 A Prima Facie Case of Obviousness Has Not Been Made

Claims 20-25, 27, and 31. Claims 20-25, 27, and 31 have also been rejected under §103(a). To make a proper §103 rejection, the Examiner has the burden of showing a *prima facie* case of obviousness. *In re Bell*, 991 F.2d 781, 783, 26 USPQ2d 1529, 1530 (Fed. Cir. 1993); *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988); MPEP § 2142. If such a showing is not made, the rejection must be withdrawn. As made clear by the case law and MPEP Sections §§ 2142 and 2143.01-03, to establish such a *prima facie* case, the Examiner must show that there is some objective suggestion or motivation, either in the references or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988).

The mere assertion that a modification of Boulter would be obvious does not carry the Examiner's burden of making a *prima facie* showing of obviousness, and thus is not sufficient for a §103 rejection. "Either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of

the teachings of the references.” *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). It is the duty of the Examiner to explain why the combination of the teachings is proper. *Ex parte Skinner*, 2 USPQ2d 1788 (Bd. Pat. App. & Inter. 1986); MPEP § 2142. Without reasonably specifying the reasons for the rejection, the Examiner procedurally fails to establish a *prima facie* case of obviousness. *Ex parte Blanc*, 13 USPQ2d 1383 (Bd. Pat. App. & Inter. 1989). The showing of obviousness must be “clear and particular,” and “broad conclusory statements regarding the teaching” of the prior art are not evidence. *In re Dembiczaik*, 175 F.3d 994, 999 (Fed. Cir. 1999). Also, the showing of a teaching, suggestion, or motivation is an “essential evidentiary component of an obviousness holding.” *C.R. Bard, Inc. v. M3 Systems, Inc.*, 157 F.3d 1340, 1352 (Fed Cir. 1998).

Claim 20. With respect to independent Claim 20, as discussed above, Boulter does not teach or suggest a water-using unit integrated with a treated water source, *and* a separate, remote unit which is supplied by the treated water source. No reasoning has been provided as to why it would have been obvious to modify Boulter to create the claimed invention. Without an objective suggestion or motivation to make such a modification, the rejection is improper.²

Moreover, the Examiner’s arguments about the inherency of remote units having separate user access areas, and that “making integral is not patentable,” are inapposite. Claim 20 includes a water-using unit integrated with a treated water source, *and* a remote unit *supplied by* the treated water source. The claim is not merely to remote units, or merely to integrated units. Rather, it is to the combination and related water supply, which is novel and non-obvious. The issue is whether the claimed invention *as a whole* would have been obvious; not whether each element is known. *Stratoflex, Inc. v. Aeroquip Corp.*,

² Boulter teaches a kiosk-type system. See, Boulter, Col. 2, lines 10-24, and Figures 1, 2, 17, and 18. Modifying Boulter to include a remote unit (assuming, *arguendo*, that its kiosk is one unit) would destroy its purpose of a unified kiosk. “If [the] proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).” MPEP § 2143.01.

713 F.2d 1530, 1537 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 713 F.2d 782, 785 (Fed. Cir. 1983); *see also, In re Hirao*, 535 F.2d 67, 69 (CCPA 1976) (requiring an analysis of the subject matter *as a whole*). Arguments about individual elements are not substitutes for a proper obviousness analysis, and there is no teaching in Boulter about supplying a remote unit from a source integrated with a water-using unit. Thus, Applicant respectfully requests that Claim 20 (and all its dependent claims) be allowed.

Claims 24, 27, and 31. With respect to Claims 24, 27, and 31, Boulter does not teach or suggest the claimed invention, and it would not be obvious to modify Boulter to create the claimed invention. These claims each include a cooling source located in cooling proximity to a treated water reservoir, which is integrated with a water-using unit. As discussed above at the end of Section 2.1, Boulter does not teach cooling proximity, ***and it does not teach integrating the reservoir with the water-using unit for this cooling proximity.*** The rejection misses its mark in arguing that “making integral is not patentable” and that “applicant has not shown any specific structure to show” that there is anything unique about integrating the treated water source with the water-using unit. Contrary to that rationale, in these claims, ***the integration allows the cooling proximity,*** which increases the efficiency of the unit. See, Page 9, lines 15 – 20. As discussed above, a proper analysis views the claim *as a whole*, rather than each individual element in isolation. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 1537 (Fed. Cir. 1983). Because there is no motivation or suggestion to modify Boulter to create the claimed invention, it cannot render these claims obvious.

For these foregoing reasons, Applicant respectfully requests that the §103 rejection of Claims 20-25, 27, and 31 be withdrawn, and that they be allowed.

3. *Rejections of Claims 1, 8, and 12 - 14*

Claims 1, 8, and 12-14 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Boulter in view of U.S. Patent No. 5,256,279 (“Voznick”). Applicant

respectfully traverses the rejection, as it is based on an improper reading of Boulter, and on a combination of references made in contradiction to the well settled principle of law that “[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.” *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988).

Claim 1. Independent Claim 1 is similar to Claim 31, and thus includes a cooling source located in cooling proximity to a treated water reservoir, which is integrated with a water-using unit. As discussed above at the end of Section 2.2, Boulter does not teach cooling proximity, ***and it does not teach integrating the reservoir with the water-using unit for this cooling proximity.*** For the same reasons provided above in connection with Claims 24, 27, and 31,³ there is no motivation or suggestion to modify Boulter to create the claimed invention, and it cannot render these claims obvious.

Voznick has been cited only to provide a reference for a reservoir having reverse osmosis water inside a bladder (Boulter does not show such an arrangement). However, because Boulter does not provide any teaching regarding the integrated reservoir/cooling proximity limitations (as was improperly assumed in the rejection), and neither does Voznick, the combination of the two references cannot render Claim 1 (nor dependent Claims 8 and 12-14) obvious, and the rejection should be withdrawn.

In addition, there is no suggestion or motivation in Boulter or Voznick to combine them as desired by the Examiner, even for the flexible reservoir limitation of Claim 1. Following is a discussion of the improper hindsight reconstruction that has been employed herein, and which applies to all of the combination rejections made in this application.

3.1 Hindsight Claim Reconstruction is Improper

In analyzing obviousness questions, “[c]are must be taken to avoid hindsight reconstruction by using ‘the patent in suit as a guide through the maze of prior art

³ For brevity, those arguments are not repeated here, but are incorporated by reference.

references, combining the right references in the right way so as to achieve the result of the claims . . ." (internal citation omitted). *Grain Processing Corp. v. American Maize-Products Co.*, 840 F.2d 902, 907, 5 USPQ2d 1788, 1792 (Fed. Cir. 1988). Federal Circuit "case law makes clear that the best defense against hindsight-based obviousness analysis is the rigorous application of the requirement for a showing of a teaching or motivation to combine the prior art references." *Ecolochem, Inc., v. Southern California Edison Company*, (Circuit Judge Michel in an unpublished 2000 Federal Circuit opinion, citing *In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999)).

"Combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability--the essence of hindsight." *In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). "When a rejection depends on a combination of prior art references, there must be some teaching, suggestion, or motivation to combine the references." *In re Rouffet*, 149 F.3d 1350, 1355, 47 USPQ2d 1453, 1456 (Fed. Cir. 1998) (citing *In re Geiger*, 815 F.2d 686, 688, 2 USPQ2d 1276, 1278 (Fed. Cir. 1987)).

The rejection of Claims 1, 8, and 12-14 based on the combination of Boulter and Voznick is the kind of summary rejection prohibited by the Federal Circuit law. The rejections attempts to justify the combination with the conclusory statement that

"it would be obvious to one of ordinary skill in the art at the time of the invention to use the teaching of Voznick in the teaching of Boulter to have the RO water inside the bladder for controlling the water stored in the bladder as taught by Voznick without having significant backpressure and prevent air-borne bacteria."

Such a conclusory statement is not evidence, and fails to make out a *prima facie* case of obviousness. There is no explanation for why one would find it obvious to modify Boulter with the Voznick teaching, and there is no explanation why Voznick's concerns for backpressure and bacteria would lead one to combine it with Boulter. It is improper to

simply lay out a laundry list of elements from the prior art and conclude that it would be obvious to combine them. Without a particularized showing “as to the specific understanding or principle within the knowledge of the skilled artisan” that would have provided the motivation to combine – and there is none here – the rejection is improper. *In re Kotzab*, 217 F.3d 1365, 1371 (Fed. Cir. 2000). “To imbue one of ordinary skill in the art with knowledge of the invention [at issue], when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher.” *W.L. Gore & Assocs., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1553 (Fed. Cir. 1983). These rejections fall well short of the requirements laid out by the Federal Circuit Court of Appeals for proper rejections.

It is therefore respectfully submitted that Claims 1, 8, and 12-14 should be allowed.

4. Rejections of Claims 26 and 28-30

Claims 26 and 28-30 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Boulter in view of U.S. Patent No. 5,992,685 (“Credle”). Applicant respectfully requests that this rejection be withdrawn. First, these claims depend from Claim 20, which, as discussed above, should be allowed. Thus, Claims 26 and 28-30 too should be allowed.

Second, the rejection fails to make out a *prima facie* case of non-obviousness. There is simply no teaching or suggestion in the references that would motivate their combination, and the Examiner has failed to point to any. The rejection merely states

“[i]t would be obvious to one of ordinary skill in the art at the time of the invention to have the Boulter R/O system coupled/connected to the beverage dispenser of Credle (685) to have a filtered fluid before dispensing as taught by Credle. (figure 2, R/O before dispensing)”⁴

⁴ It is unclear what the reference to figure 2 is, since Credle does not discuss R/O treatment.

As discussed above in Sections 2.2 and 3.1, mere conclusions of obviousness, without specific reasons to support the conclusions, cannot be the basis for a proper rejection. This rejection is precisely the kind of rejection found wanting under Federal Circuit law, and should be withdrawn.

Claims 28, 29, and 30. Moreover, with respect to Claims 28, 29, and 30 (29 and 30 depend from 28), the host system is a beverage dispensing system, and there is no teaching in Credle or in Boulter that shows a treated water source integrated with a beverage dispenser and which supplies water to a remote unit. Without any such teaching, there can be no suggestion or motivation to combine the references.

5. *Rejections of Claims 15 and 18-19*

Claims 15 and 18-19 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Boulter in view of Voznick and Credle. Applicant respectfully requests that this rejection be withdrawn. First, these claims depend from Claim 1, which, as discussed above, should be allowed. Thus, Claims 15 and 18-19 should also be allowed.

Second, the rejection fails to make out a *prima facie* case of non-obviousness. There is simply no teaching or suggestion in the references that would motivate their combination, and the Examiner has failed to point to any. Only a conclusory statement that it would have been obvious to combine the references has been provided. However, as discussed above in Sections 2.2 and 3.1, mere conclusions of obviousness, without specific reasons to support the conclusions, cannot be the basis for a proper rejection.

Moreover, with respect to Claims 15, 18 and 19 (18 and 19 depend from 15), the host system is a beverage dispensing system, and there is no teaching in Credle, Voznick, or Boulter that shows a treated water source integrated with a beverage dispenser in cooling proximity to the beverage dispenser's cooling source. Without any such teaching, there can be no suggestion or motivation to combine the references.

6. Rejections of Claims 6, 7, 11, and 12

Claims 6, 7, 11, and 12 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Boulter in view of Voznick and U.S. Patent No. 5,536,411 ("Blades"). Applicant respectfully requests that this rejection be withdrawn. First, these claims depend from Claim 1, which, as discussed above, should be allowed. Thus, Claims 6, 7, 11, and 12 should also be allowed.

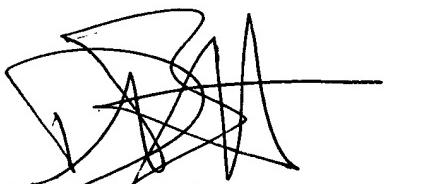
Second, the rejection fails to make out a *prima facie* case of non-obviousness. There is simply no teaching or suggestion in the references that would motivate their combination, and the Examiner has failed to point to any. As discussed above, mere conclusions of obviousness, without specific reasons to support the conclusions, cannot be the basis for a proper rejection.

In view of the foregoing, Applicant respectfully requests that the Final Rejection of the Examiner, dated September 16, 2004, be reversed on all grounds, and that all claims be allowed. If there are any questions concerning this Appeal Brief, please call Dennis Braswell at the telephone number set forth below.

Please direct all correspondence to:

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Feb 16, 2005
Date



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CLAIMS APPENDIX

1. A water-using unit, comprising:
 - a cabinet;
 - a treated water source sharing at least part of said cabinet such that said treated water source is integral with the water-using unit, said treated water source comprising a reverse osmosis water treatment system including a flexible reservoir in which water treated by said reverse osmosis water treatment system is stored;
 - a host system performing host functions, said host system coupled to said cabinet and to said treated water source, said host system comprising a cooling source, and wherein said reservoir is located in cooling proximity to said cooling source so as to allow cooling of said water in said flexible reservoir; and
 - a control system coupled to and controlling operation of said treated water source and said host system.
6. The unit of Claim 1, and further comprising:
 - a condenser coupled to said host system; and
 - reject water generated by said reverse osmosis water treatment system, said reject water passing proximate said condenser to assist in heat removal.
7. The unit of Claim 1, and further comprising:
 - a condenser coupled to said host system; and
 - inlet water, said inlet water passing proximate said condenser to assist in heat removal.

8. The unit of Claim 1, wherein said host system comprises an ice making system.
11. The unit of Claim 1, wherein said cooling source comprises an evaporator.
12. The unit of Claim 1, wherein said cooling source comprises ice.
13. The unit of Claim 8, wherein said control system causes water to be pulsed in said ice making system.
14. The unit of Claim 8, wherein water not frozen in said ice making system is returned to said reservoir.
15. The unit of Claim 1, wherein said host system comprises a beverage dispensing system.
18. The unit of Claim 15, wherein said beverage dispensing system includes:
 - a carbonator coupled to said reservoir, said carbonator generating carbonated water;
 - at least one supply of syrup; and
 - a plain water circuit for non-carbonated water, such that carbonated and non-carbonated beverages may be dispensed.
19. The unit of Claim 18, and further comprising at least one supply of flavor, such that flavors may be added to the carbonated and non-carbonated beverages.
20. A system, comprising:
 - a water-using unit having a cabinet and a first user access area, said water-using unit including a treated water source sharing at least part of said cabinet such that said treated water source is integral with said water-using unit and further including a host system performing host functions, said host system coupled to said treated water source; and

a separate unit remote from said water-using unit such that said separate unit does not share said cabinet, said separate unit having a second user access area, said separate unit supplied by said treated water source, and wherein said first and second user access areas are not presented as a combined user access area.

21. The system of Claim 20 wherein said treated water source comprises a reverse osmosis system.
22. The system of Claim 21, wherein said treated water source further comprises a reservoir coupled to said reverse osmosis system.
23. The system of Claim 20 wherein said treated water source comprises a reservoir.
24. The system of Claim 23, and further comprising a cooling source, said reservoir located in cooling proximity to said cooling source.
25. The system of Claim 20, wherein said host system comprises an ice making system.
26. The system of Claim 25, wherein said separate unit comprises a beverage dispenser.
27. The system of Claim 25, wherein:
said treated water source comprises a reservoir; and
said ice making system includes a cooling source, said reservoir located in cooling proximity to said cooling source.
28. The system of Claim 20, wherein said host system comprises a beverage dispensing system.
29. The system of Claim 28, wherein said separate unit comprises an ice maker.

30. The system of Claim 28, wherein said treated water source comprises a reverse osmosis system and a reservoir, said reservoir coupled to said beverage dispensing system.
31. A water-using unit, comprising:
 - a cabinet;
 - a treated water source sharing at least part of said cabinet such that said treated water source is integral with the water-using unit, said treated water source comprising a reservoir;
 - a host system performing host functions, said host system coupled to said cabinet and to said treated water source;
 - a control system coupled to and controlling operation of said treated water source and said host system; and
 - a cooling source located in cooling proximity to said reservoir so as to allow cooling of said reservoir.